

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1372 of 2021**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**23.08.2021**

Mr. Allah Wadhayo Mirani, Advocate for the Applicant.  
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh along with S.I  
Muhammad Ishaque of P.S Site Superhighway, Karachi.  
Complainant Razi Khan, present in person.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this bail application, Applicant Zabiullah seeks his release on post arrest bail in Crime No.519/2011 of P.S S.S.H.I.A., Karachi, under Section 397 PPC. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 08.06.2021; hence, he has approached to this Court through this Application.

The brief facts of the prosecution case are that on 31.04.2021 complainant Razi Khan son of Nawab Khan lodged FIR at police station Site Super Highway & Industrial Area, Karachi, stating therein that on 21.04.2021 he was present at his Estate Agency along with Bashir Ahmed son of Kamal Din and others, all of sudden three armed culprits entered his agency, whereas, one of their companion was standing outside, they on the force of weapons took out cash of Rs.42000/- from the pocket of his wearing shirt, cash Rs.104,000/- original CNIC and mobile phone from the pocket of his relative namely Bashir Ahmed and from the adjacent mobile shop of his son namely Rizwan Khan, they robbed cash Rs.22000/- and seven mobile phones and tried to escape. The culprit, who was standing outside was apprehended by them along with weapon by the complainant and others, mohalla people also gathered there and maltreated the apprehended accused. During scuffling the accused, two fires were made by the

apprehended accused, who on inquiry disclosed his name to be as Sulleman Ali son of Muhammad Amin and further disclosed the names of escapees to be Zabiullah, Malang and Sohail. The complainant produced the apprehended accused along with his motorcycle bearing registration No. KAF-5584, 9MM pistol along with loaded magazine with four alive bullets. Hence, this FIR.

The process issued against complainant has been returned duly served; taken on record. Complainant Razi Khan, present in person and submits that he has no means to engage private counsel; however, has shown his trust upon Addl. P.G, Sindh.

Learned counsel submits that in the incident co-accused Suleman Khan was apprehended by the mob who disclosed name of the present applicant as well as co-accused Sohail and Malang. He further submits that after his arrest, applicant was not subjected to identification parade. As far as, his implication in this case on the statement of co-accused Suleman is concerned, same carries no weight particularly when nothing incriminating was secured from his possession. He further submits that co-accused Sohail Khan having similar role has been granted bail by the trial Court vide order dated 08.05.2021 (annexure-D available at page-57 of the Court file), therefore, submits that rule of consistency is very much attracted and the applicant is entitled for grant of bail.

On the other hand, learned Addl. P.G, Sindh, opposes the bail application on the ground that applicant sustained fire arm injury at the hands of his companion namely co-accused Suleman. She; however, could not controvert the fact that nothing incriminating was secured from his possession.

Complainant present in person, opposes the bail application on the ground that he is the real culprit of the offence.

**Heard arguments, record perused.** Admittedly, name of the applicant was disclosed by co-accused Suleman, who was apprehended by the mob on spot; besides, nothing incriminating has shown to have been secured from his possession. Co-accused Sohail Khan has been granted bail by the trial Court and the case of applicant is at par with him. As far as

instant crime is concerned, his accusation is yet to be determined by the trial Court after recording evidence of the parties. The propriety of law demands that constant treatment should be extended in his favour. Moreover, one of co-accused is at large, therefore, trial will not be commenced in near future. In such eventuality, accused cannot be kept behind the Bars without progress in his trial.

The upshot of above discussion is that applicant has made out a good prima facie case for his release on post arrest bail within the meaning of subsection 2 to section 497 Cr.P.C. Consequently, bail application in hand is hereby allowed. Applicant **Zabiullah son of Sher Muhammad**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail.

This Criminal Bail Application is disposed of in the terms indicated above.

**JUDGE**

Zulfiqar/P.A